

SENATE BILL 385
By Dixon

AN ACT to create a special committee to study equal access to justice and other implications of death penalty trials, and to provide for a moratorium on the death penalty.

WHEREAS, the General Assembly of the State of Tennessee recognizes the value of each person's life and the need to protect that life whenever possible; and

WHEREAS, the State should exercise utmost care to protect its residents' lives from homicide, accident, and unjust taking by the state; and

WHEREAS, significant numbers of Tennesseans, including some members of this Body, have grave reservations about the fairness in the way that the death penalty is imposed in our State and elsewhere, as well as concern about the cost to taxpayers in carrying out the death penalty; and

WHEREAS, many Tennesseans maintain that inadequate representation, economic status, race, judicial error, prosecutorial zeal, or other factors may deny some defendants the right to adequate representation or a fair trial in capital cases; and

WHEREAS, new methods and technologies have been developed for determining more precisely the guilt or innocence of accused in capital crimes;

WHEREAS, the execution of an innocent person by the State of Tennessee would be an irreversible injustice; and

WHEREAS, it is consistent with Tennessee's history, philosophy, and values to ensure a system of justice which is impartial; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. There is created a special committee to study access to justice and other implications of death penalty trials in the State of Tennessee. The committee shall be known as the death penalty study committee, herein referred to as "the committee".

SECTION 2. The committee shall consist of fifteen (15) members, as follows: three (3) members of the senate, appointed by the speaker of the senate; three (3) members of the house of representatives, appointed by the speaker of the house; three (3) persons appointed by the governor; the attorney general and reporter; a representative of the Tennessee bar association; a representative of the Tennessee association of criminal defense lawyers; a representative of the district attorneys general conference; a representative of the state district public defenders conference; and a representative of the office of post-conviction defenders.

The committee shall be convened by the legislative member with the most years of continuous legislative service, and, at its organizational meeting shall elect from the legislative membership, a chair, vice chair, and such other officers, as it may deem necessary.

Members of the committee shall serve without compensation, except that any member of the committee who is not a state employee shall be reimbursed for all travel expenses incurred as a result of such person's duties with the committee in accordance with the provisions of the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 3. The committee shall study, receive testimony, deliberate upon, and make recommendations on all aspects of capital punishment trials in the state. The committee shall examine and consider, but not be limited to, the following:

- (1) The adequacy of counsel in all stages of capital cases, and the sufficiency of guidelines for appointment and performance of such counsel;

- (2) The adequacy of investigative support afforded accused in capital cases;
- (3) The process for judicial review of the merits claims in state post-conviction and federal habeas corpus proceedings;
- (4) Any disproportionate racial impact upon any aspect of capital case proceedings;
- (5) Whether mentally retarded persons should be executed, and what criteria should be used in judging the level of retardation involved;
- (6) Prosecutorial misconduct or judicial error as a factor in the imposition of the death penalty; and
- (7) The presence of innocent persons on death row in Tennessee.

SECTION 4. The committee shall report its findings and recommendations to the governor and the general assembly on or before April 1, 2004.

SECTION 5. It is the legislative intent that a moratorium be established with regard to carrying out any death penalty imposed by a court of this state until such time as the moratorium ends as provided by this act.

SECTION 6. It is the legislative intent that the death penalty moratorium shall end only after the general assembly has received and considered the recommendations of the committee.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.